

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 09-313
)	
EDWARD SICELOFF)	

GOVERNMENT'S RESPONSE TO DEFENDANT'S
MOTION TO DISMISS FOR LACK OF JURISDICTION

AND NOW comes the United States of America, by its attorneys, Robert S. Cessar, Acting United States Attorney for the Western District of Pennsylvania, and Shaun E. Sweeney, Assistant United States Attorney for said district, responding as follows:

In the defendant's pleading entitled "Motion To Dismiss For Lack of Jurisdiction" (hereinafter "the defendant's Motion"), the defendant seeks an Order compelling the government to prove that it has standing to prosecute the defendant in this case. According to the defendant, if the government cannot prove that it has standing, then: (a) it is the duty of the Court "to dismiss the proceedings for lack of jurisdiction," and (b) "the Court is absent jurisdiction to examine the alleged facts of the case or make any rulings upon any evidence concerning them."

The government's response is that, in 1870, Congress passed the Act To Establish The Department of Justice, Ch. 150, 16 Stat. 162 (1870) setting it up as "an executive department of the government of the United States" with the Attorney General as the head of the Department of Justice ("DOJ"). The Act of 1870 provided that DOJ was to handle the legal business of the United

States, including all civil suits and criminal prosecutions in which the United States has an interest. The Act of 1870 also gave control of federal law enforcement to DOJ and the Attorney General. See statutes now codified at Title 28, United States Code, Sections 509, 510, 515, 516 and 519.

Government counsel, as an officer of DOJ, is authorized to prosecute this case, which involves a violation of a federal criminal statute, namely, Section 7203, which is a statute pertaining to the requirements for filing federal income tax returns.

Based on the foregoing, the defendant's Motion should be denied.

Respectfully submitted,

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